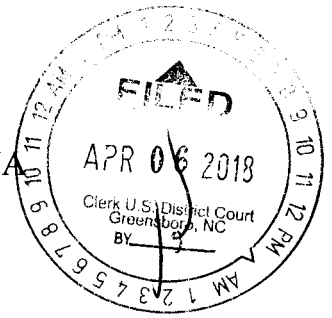


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



David Clark, et al.,

Plaintiffs,

v.

Duke University, et al.,

Defendants.

16cv1044

ORDER

The plaintiffs move to modify the Scheduling Order. The defendants agree a short extension is necessary but disagree as to details.

Pursuant to Federal Rule of Civil Procedure 16(b)(4), and in the Court's discretion and inherent authority to move the matter efficiently and fairly towards trial or other resolution, the Court will grant the motion in part and impose additional deadlines. The Court has taken into account the positions of the parties as set forth in the briefing as well as its familiarity with the case and its experience in other complex cases.

Under this schedule the case will be almost three years old when it comes to trial. The parties have had and will have significant time to accomplish pre-trial tasks. The Court does not anticipate extending any of these dates. The parties should not wait until the end of the time allowed to undertake depositions or file motions to compel, should that unfortunate need arise. The parties should build in time to resolve the inevitable scheduling problems, disputes, and emergencies. While the Court expects counsel to work together on scheduling matters, counsel are reminded that no attorney is entitled to

have his or her individual schedule accommodated in all things, given the number of attorneys who have entered an appearance in the case and the need to move forward expeditiously and without additional delay. The Court has adjusted the briefing schedule for summary judgment to take into account the need to accommodate holidays and school vacations. The parties and counsel should plan accordingly.

The parties are advised that the Court intends to grant the pending motion for class certification and that it intends to enter the order within approximately one week.

It is **ORDERED** that:

1. The plaintiffs' motion to extend the discovery schedule, Doc. 88, is **GRANTED IN PART**.
2. The pre-trial deadlines set forth in the parties' Joint Rule 26(f) Report, Doc. 54, are hereby extended as follows:

May 21, 2018:	Close of fact discovery.
July 6, 2018:	Deadline for initial expert disclosures reports.
August 21, 2018:	Deadline for responsive expert disclosures and reports.
September 11, 2018:	Deadline for rebuttal expert disclosures and reports.
October 19, 2018:	Close of expert discovery.
November 2, 2018:	Notice of intent to file dispositive motions.
November 16, 2018:	Dispositive motions.
December 21, 2018:	Briefs in opposition to dispositive motions.
January 11, 2019:	Reply briefs to dispositive motions.

3. The parties may agree to modifications of discovery deadlines and disclosure deadlines for experts without court approval. The parties may not extend deadlines for court submissions. Any such change requires the approval of both the assigned Magistrate Judge and the assigned District Judge.

4. Subject to this Court's further order, after review of the summary judgment briefs, the following deadlines are imposed:

April 23, 2019: Rule 26(a)(3)(A) disclosures.

May 7, 2019: Rule 26(a)(3)(B) objections, LR 40.1(c) filings, and motions in limine.

May 14, 2019: Responses to motions in limine.

5. The Court anticipates holding a pre-trial conference in May 2019 and trying the case during the July 2019 civil master term, should summary judgment be denied. If no summary judgment motions are filed, or should summary judgment be limited to one or two straightforward questions or otherwise take less time for the Court to resolve than the Court anticipates, then the trial date may be moved up. The exact trial date will be scheduled after consultation with counsel.

6. The pleadings reflect a dispute between the parties as to whether a jury trial is appropriate. If the plaintiffs want a jury trial, they shall file a motion and brief in support requesting a jury trial no later than **April 22, 2018**. The brief in opposition is due **May 13, 2018**, and any reply brief is due **May 24, 2018**. The Court will not reduce the

word limits established in the Local Rules, but the Court encourages the parties to be concise. If no such motion is filed, the matter will proceed as a non-jury case.

7. The matter is set for a status and planning conference at 10 a.m. on Monday, **April 30, 2018**. At least one named plaintiff shall attend and at least one client representative for defendants shall attend. The topics will be trial time, mediation, and case management.


a. Counsel are directed to meet and confer in person at least twice before the April 30, 2018, conference to discuss ways i) to manage this case efficiently and fairly, ii) to make the summary judgment briefing manageable, productive, and clear, and iii) to reduce costs. For example:

- i. Are there issues that do not require expert testimony that may be appropriate for summary judgment briefing over the summer?
What facts are appropriate for stipulation?
- ii. Should the parties meet in advance of the summary judgment briefing to narrow and specifically define the legal and factual issues before the Court, perhaps by developing the equivalent of a verdict sheet?
- iii. Would it be productive for the parties to exchange or submit proposed findings of fact and conclusions of law as to each

claim and defense in advance of the summary judgment briefing?

- b. It would be helpful if counsel prepared a discussion draft of a proposed Order addressing these issues for use at the hearing.
- c. The Court is amenable to discussing other case management, scheduling, or housekeeping issues of interest to the parties. Counsel should discuss these topics with each other when they meet and confer. Three days before the hearing, counsel should provide a list of additional topics to the Court's case manager.

SO ORDERED this the 6th day of April, 2018.



UNITED STATES DISTRICT JUDGE